

Miles Murphy, M.D.

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
3 CHARLESTON DIVISION

- - -

4 IN RE: ETHICON, INC. PELVIC : Master File No.
5 REPAIR SYSTEM PRODUCTS : 2:12-MD-02327
6 LIABILITY LITIGATION : MDL No. 2327

7 THIS DOCUMENT RELATES TO ALL : JOSEPH R.
8 WAVE 8 AND SUBSEQUENT WAVE : GOODWIN
9 CASES AND PLAINTIFFS : U.S. DISTRICT
10 : JUDGE

11 General TVT and TVT-O Matter

- - -

12 OCTOBER 9, 2018

- - -

13 Oral deposition of MILES
14 MURPHY, M.D., taken pursuant to notice,
15 was held at the law offices of Butler
16 Snow LLP, 500 Office Center Drive, Suite
17 400, Fort Washington, Pennsylvania 19034,
18 commencing at 10:02 a.m., on the above
19 date, before Amanda Dee Maslynsky-Miller,
20 a Certified Realtime Reporter and Notary
21 Public in and for the Commonwealth of
22 Pennsylvania.

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23 GOLKOW TECHNOLOGIES, INC.

24 877.370.3377 ph| 917.591.5672 fax
 deps@golkow.com

Miles Murphy, M.D.

1 APPEARANCES:

2

3

AYLSTOCK, WITKIN, KREIS &

OVERHOLTZ, PLLC

4

BY: ANN GAYLE, ESQUIRE

17 E. Main Street

5

Suite 200

Pensacola, Florida 32563

6

(850) 202-1010

Agayle@awkolaw.com

7

Representing the Plaintiff

8

9

10

BUTLER SNOW LLP

BY: NILS B. (BURT) SNELL, ESQUIRE

11

500 Office Center Drive

Suite 400

12

Fort Washington, Pennsylvania 19034

(267) 705-4910

13

Burt.snell@butlersnow.com

Representing the Defendant

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1 report as well, correct?

2 A. Correct.

3 Q. Doctor, for Exhibit-7, your
4 report, how did you decide to combine
5 your TVT and your TVT-O products into
6 that report?

7 A. That was at the request of
8 Mr. Snell.

9 Q. And does this report contain
10 each of the opinions that you've reached
11 regarding TVT and TVT-O?

12 A. Yes.

13 Q. Sometimes, Doctor, I might
14 refer to TVT and TVT-O as the SUI
15 products or the SUI report. I'm talking
16 about Exhibit-7, if I happen to do that.

17 Can we agree that you
18 would -- do you have any objections to
19 that or any -- you would understand it if
20 I'm referring to that, correct?

21 A. That's fine, yes.

22 Q. Okay. In Exhibit-7, did you
23 discuss the facts that you felt were most
24 important in drawing your opinions?

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1 Q. So, Doctor, with regard to
2 those general expert reports that you
3 read, do you recall who you read?

4 A. Not off the top of my head.
5 Sorry.

6 Q. Did any one particular
7 expert's opinions stand out that you
8 disagreed with?

9 A. Not in -- not in particular.

10 Q. Of the experts that you
11 read, Doctor, do you know any of the
12 plaintiff experts personally?

13 A. In the Wave 8? No.

14 Q. In the Wave 8 general
15 reports that you've reviewed.

16 A. Not that I -- I do not
17 believe so.

18 Q. Doctor, this report is dated
19 August 2018; is that correct?

20 Page 71, I believe, Doctor.

21 A. Yes. August 11, 2018.

22 Q. And, Doctor, on that day
23 when you signed there, did that -- this
24 report represent all the opinions that

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1 you had formed regarding the TVT and the
2 TVT-O up until that point?

3 A. Yes, I think that's a fair
4 assessment of it.

5 Q. And, Doctor, since the
6 signing of this report, have you formed
7 any other opinions that may not be
8 included in this report, since August of
9 2018?

10 A. So since then I have
11 reviewed some additional articles,
12 specifically on ABBREVO® and EXACT®,
13 which I don't think we're talking about
14 today. None of those changed my general
15 opinions, but I did review some of those
16 since signing this report on August 11th.

17 Q. Doctor, are you aware of how
18 many documents have been produced, and
19 we're talking about the volume of
20 documents, in the litigation by Ethicon
21 and Johnson & Johnson to the plaintiffs?

22 A. I have a general
23 understanding that it's quite extensive.

24 Q. And, Doctor, do you have any

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1 A. The name rings a bell, but I
2 couldn't tell you specifically who she
3 is.

4 Q. And in connection with my
5 question regarding whether or not you're
6 holding yourself out as an expert in
7 pathology in this litigation, have you
8 performed any sort of large histological
9 review of tissue samples taken out of
10 patients?

11 A. I've reviewed --

12 MR. SNELL: Object to form.
13 Go ahead.

14 THE WITNESS: I've reviewed
15 many articles on the pathology and
16 the histology of samples reviewed.

17 BY MS. GAYLE:

18 Q. I'm talking about the actual
19 slides, Doctor, that you might look at
20 under the microscope.

21 A. Have I looked at the slides
22 under a microscope myself?

23 Q. From a large selection of
24 those particular things you might have

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1 removed.

2 In other words, what I'm
3 trying to get at is, have you done a
4 formal study regarding transvaginal mesh
5 in your patients?

6 MR. SNELL: Object to form.
7 Go ahead.

8 THE WITNESS: So all the
9 studies that I've conducted are in
10 my CV. I do not -- since medical
11 school, I've never looked at a
12 microscope of anything that I've
13 removed from a patient.

14 BY MS. GAYLE:

15 Q. And, I'm sorry, Doctor, I
16 have to go through these. It's just sort
17 of a formality.

18 Doctor, are you holding
19 yourself out as an expert in the Food and
20 Drug Administration's medical device
21 labeling regulations?

22 A. Yes, I am.

23 Q. And, Doctor, do you have any
24 formal FDA regulation training and

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1 A. I would, basically, going
2 back to the same type of answer, for the
3 sake of time, that I gave for
4 biomechanics.

5 Q. Biomechanics?

6 A. Yes.

7 Q. Thank you, Doctor.

8 And Doctor, do you hold a
9 degree in chemical engineering?

10 A. I do not.

11 Q. Doctor, do you hold a degree
12 in polymer chemistry?

13 A. I do not.

14 Q. Doctor, have you ever
15 performed any bench research on
16 polypropylene mesh?

17 A. I personally have not
18 performed bench research on polypropylene
19 mesh, no.

20 Q. And, Doctor, we talked about
21 a few of the articles that you had
22 published in peer-reviewed journals
23 earlier and you listed those out.

24 I understood that none of

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1 Q. And, Doctor, in the
2 mechanical cut, if small pieces were to
3 separate in the human body from the
4 mechanical cut, that potentially could
5 cause a patient complications?

6 A. There's certainly no
7 evidence in the medical literature to
8 suggest that that's the case.

9 Q. So you don't believe that --
10 summarizing your opinion, you don't
11 believe that if there was any sort of
12 particles or pieces of mesh that had
13 frayed off of a mechanical cut piece of
14 mesh, that that would cause any sort of
15 complication in a patient? Did I
16 summarize that correctly?

17 MR. SNELL: Asked and
18 answered.

19 Go ahead.

20 THE WITNESS: I think
21 overall as a whole, yes, that's
22 correct.

23 BY MS. GAYLE:

24 Q. Do you believe that those

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1 pieces of mesh that would fray off a
2 mechanical cut piece would cause any
3 inflammatory response?

4 MR. SNELL: Foundation.

5 THE WITNESS: I don't think
6 it would be any greater than the
7 sling itself.

8 BY MS. GAYLE:

9 Q. And what do you mean by "any
10 greater than the sling itself"?

11 A. So there's always some
12 degree of inflammation regarding
13 placement of a foreign body in the human
14 body. And there's going to be
15 inflammation from the sling itself.

16 If little particles of that
17 sling separate from the sling itself,
18 it's still the same amount of foreign
19 body that would have been in the patient.
20 And I don't think the inflammatory
21 response is substantially different if
22 it's separate from the sling versus
23 attached to the sling.

24 Q. When you were reviewing your

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1 A. No.

2 Q. And with regard to the
3 TVT-O, have you ever provided any input
4 to Ethicon on what information should be
5 included in the TVT-O IFU?

6 A. Not that I recall.

7 Q. Have you ever drafted an IFU
8 for TVT?

9 A. No.

10 Q. Have you ever drafted an IFU
11 for TVT-O?

12 A. No.

13 Q. Have you ever drafted an IFU
14 for any mesh manufacturer?

15 A. I haven't drafted a whole
16 IFU. I think some of the validation that
17 I did for Secur would have probably
18 worked into the IFU. Similarly, some of
19 the work I did with the Prosima may have
20 had some bearing and went into the IFU.

21 But I have not specifically
22 authored IFUs for any mesh product.

23 Q. You didn't draft the
24 language for either the Prosima or the

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1 TVT-S?

2 A. I did not draft it, no.

3 Q. Is it your opinion, Doctor,
4 that the IFU for the TVT is adequate?

5 A. Yes.

6 Q. And, Doctor, what is the
7 basis of that opinion?

8 A. My basis is that the
9 document is designed to provide,
10 obviously, the instructions for use.
11 It's supposed to inform the implanter
12 regarding risks associated with the
13 device.

14 And I think it has -- I
15 think all the iterations of it have done
16 that, done so.

17 Q. What standards, other than
18 your own personal viewpoint, what source
19 of information are you relying on to
20 claim adequacy?

21 A. I think my own personal
22 input is not just personal, but it's
23 professional. And I think that as
24 someone who has dedicated their life to

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1 pelvic reconstructive surgery, I think
2 I'm -- there's no better source of what's
3 appropriate than myself.

4 Q. And that would apply to an
5 IFU for both products?

6 A. Yes.

7 MS. GAYLE: I'll reserve the
8 balance of my questions.

9 - - -

10 EXAMINATION

11 - - -

12 BY MR. SNELL:

13 Q. Dr. Murphy, Burt Snell.
14 I'm just going to go back through a
15 couple of things I want to follow up on.

16 You were asked about the
17 structure of your report in the
18 beginning. You were asked about certain
19 summaries of conclusions, for example, at
20 Page 62 where the text is in bold.

21 Do you see that?

22 A. I do.

23 Q. Is it fair to say that the
24 entirety of your report contains your

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1 Q. Have you reviewed literature
2 on mesh histology?

3 A. Yes, I have.

4 Q. Is that something you
5 testified to plaintiffs' counsel?

6 A. Yes.

7 Q. Based on your review of the
8 high-level, reliable, scientific
9 evidence, as you testified to with your
10 methodology, did you find any clinically
11 significant complications with any
12 fraying of the TVT slings, if that even
13 occurs?

14 A. No, I did not.

15 Q. Based on your review of the
16 high-level scientific studies, including
17 the long-term studies on the TVT and
18 TVT-O that you identified here today, do
19 those support your opinion that there is
20 not pathologic contraction with TVT and
21 TVT-O?

22 MS. GAYLE: Object to form.

23 THE WITNESS: Yes.

24 Absolutely.

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1 MR. SNELL: That's all I
2 have. Thank you.

3 MS. GAYLE: Doctor, I just
4 have two more questions for you.

5 - - -

6 EXAMINATION

7 - - -

8 BY MS. GAYLE:

9 Q. Do you have a degree in
10 materials engineering?

11 A. I do not.

12 Q. And, Doctor, earlier you
13 were asked by counsel about the mesh, and
14 you said that you knew that it was a
15 macroporous monofilament mesh before you
16 became an expert in this litigation.

17 How did you know that? What
18 was your basis for that understanding?

19 A. Reading the scientific
20 literature.

21 Q. Any specific literature,
22 Doctor?

23 A. Well, I mean, I already
24 mentioned the Amid paper. That was the

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1 main paper that broke down the different
2 types.

3 But as we looked in my CV, I
4 did -- I wrote a whole chapter on
5 materials used in reconstructive pelvic
6 surgery, and I authored that before
7 becoming an expert in this litigation.
8 And that references multiple other
9 articles as well.

10 Q. Doctor, that chapter in the
11 book that you talked about, was that
12 regarding polymers used?

13 A. It included polymers.

14 Q. And I think I might have
15 asked this before, Doctor, but you don't
16 have a degree in design engineering, do
17 you?

18 MR. SNELL: Object to form.

19 Go ahead.

20 THE WITNESS: I do not have
21 a degree in that, no.

22 MS. GAYLE: No further
23 questions.

24 - - -